



**ZONING ADMINISTRATOR**  
**NOTICE OF DECISION**

**Date:** August 23, 2012  
**Applicant:** Lourdes Sandoval  
**Case No.:** PCC-12-039  
**Address:** 2015 Birch Road, Suite 710, Chula Vista, Ca.  
**A.P.N.:** 643-061-01-00  
**Project Planner:** Richard Zumwalt, A.I.C.P., Associate Planner

Notice is hereby given that on August 23, 2012, the Zoning Administrator considered a Conditional Use Permit (PCC-12-039) application filed by Lourdes Sandoval ("Applicant") to allow a full-service restaurant with on-site sales and consumption of alcoholic beverages (ABC Type 47 license) and live music and dance performances ("Project"), located at the Otay Ranch Town Center at 2015 Birch Road, Suite 710, Chula Vista, Ca. ("Project Site"). The Project Site is zoned Planned Community (P-C) Freeway Commercial (FC-1) with a General Plan designation of Freeway Commercial (FWC). The Property is owned by GGP-Otay Ranch, L.P. ("Property Owner"). The proposed land use is more specifically described below:

The application requests approval of a Conditional Use Permit to operate a full-service restaurant which includes serving of alcoholic beverages, and dance performance, such as flamenco and folkloric dance shows with amplified and non-amplified music. The restaurant will be located in a vacant 7,516 square foot building in the northeast portion of the Otay Ranch Town Center Mall.

Pursuant to the Otay Ranch Freeway Commercial Planned Community District Regulations, restaurants which include dancing or live entertainment and service of alcoholic beverages are conditionally permitted subject to approval of a Conditional Use Permit.

The Director of Development Services has reviewed the proposed Project for compliance with the California Environmental Quality Act and has determined that the Project qualifies for a Class 1 categorical exemption pursuant to Section 15301 (Existing Facilities) of the State CEQA Guidelines. Thus, no further environmental review is necessary.

The Zoning Administrator, under the provisions of Section 19.14.030.A of the Chula Vista Municipal Code, has been able to make the following Conditional Use Permit findings as required by CVMC Section 19.14.080:

***That the proposed use at this location is necessary or desirable and will contribute to the general well being of the neighborhood or the community.***

The proposed full-service restaurant would be located within a major regional commercial center with retail commercial and restaurant uses. The full-service restaurant with live music and dance

performance, and a full liquor license would provide desirable dining and entertainment opportunities for the Otay Ranch Town Center and the surrounding community. The proposed restaurant use is consistent with the types of uses that would be found within the commercial center.

*That such use will not under the circumstances of the particular case be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity.*

The restaurant would be located within a regional commercial center designed for this and other complimentary food and retail uses. The shopping center is on the west side of Eastlake Parkway, south of Olympic Parkway, approximately 750 feet west of the nearest residential community, the Village of Windingwalk. The restaurant is located in a complex with other existing restaurants, including King's Fish House and California Pizza Kitchen, which are located to the east of the Project site and screen the Project from this neighborhood. Thus, any noise generated by the amplified music from the Project, that could adversely affect this neighborhood would be screened by these buildings. The applicant is required to obtain a Type 47 Alcoholic Beverage Control license from the State Of California Alcoholic Beverage Control Commission (ABC) for the sales of alcohol, in compliance with all applicable state and local regulations. Conditions of approval are included in both the CUP and the ABC license, which will ensure that that alcohol sales and consumption and amplified musical performance are conducted indoors only, that doors must remain closed during business hours, that noise will not be audible from outside the building, and that amplified music and live entertainment would be prohibited in the outside patio. Sales and consumption of alcoholic beverages are limited to the hours specified in this permit. Thus, the potential for noise and public disturbances generated by the Project would be minimized and would not adversely affect the adjacent residential community. Adequate parking will be provided at the shopping center to serve the Project.

*That the proposed use will comply with the regulations and conditions specified in the code for such use.*

Granting of this conditional use permit is conditioned to require the Applicant and Property Owner to fulfill the conditions of approval and to comply with all applicable regulations and standards specified in the Municipal Code for such use. These conditions will be enforced through building plan review, inspections prior to occupancy of the use and subsequent operation of the business. Furthermore, the conditions of this permit are approximately in proportion to the nature and extent of the impact created by the project in that the conditions imposed are directly related to, and of a nature and scope related to the size and impact of the project. The project will comply with all regulations and conditions specified in the Zoning Code for uses established under PCC-12-039. The applicant is required to obtain a Type 47 Alcoholic Beverage Control license from the State Of California Alcoholic Beverage Control Commission (ABC) for the sales of alcohol, in compliance with all applicable state and local regulations.

*That the granting of this Conditional Use Permit will not adversely affect the General Plan of the City or the adopted plan of any government agency.*

The General Plan designates the site as Freeway Commercial, which permits Retail Commercial land uses such as restaurants. Restaurants including serving of alcoholic beverages and dance performance with live music are considered consistent with Freeway Commercial land uses, upon approval of a Conditional Use Permit. Thus, the proposed Project is consistent with the General Plan – land use element, and the Otay Ranch Freeway Commercial SPA Plan and PC District Regulations, and will not adversely affect the City's General Plan.

BASED ON THE FINDINGS ABOVE, THE ZONING ADMINISTRATOR hereby approves Conditional Use Permit PCC-12-039 as described above, subject to the conditions listed below. The following conditions shall apply to the Project Site, and the Applicant or successor-in-interest shall satisfy these conditions prior to issuance of the first building permit for the project, or at the timeframe specified in the condition:

#### DEVELOPMENT SERVICES DEPARTMENT

##### Planning Division:

1. The Project Site shall be developed and maintained in accordance with the PCC-12-039 approved plans, which include site plans and floor plans on file in the Planning Division, the conditions contained herein, and the Zoning Ordinance (Title 19). The Property Owner, Applicant or successor-in-interest shall remain in compliance with the conditions as long as the Project relies upon this approval.
2. The applicant shall obtain an Alcoholic Beverage Control (ABC) Type 47 license from the State of California prior to commencement of sale of alcoholic beverages. The Applicant shall comply with the applicable State ABC Laws and City Ordinances, and all conditions required by the Chula Vista Police Department pertaining to the sale and consumption of alcoholic beverages, live music and dance performance.
3. The Property Owner, Applicant or authorized representative shall execute this document by making a true copy of this Notice of Decision and signing both this original notice and the copy on the lines provided below, said execution indicating that the Property Owner and the Applicant have each read, understood and agreed to the conditions and land use operation modifications contained herein, and will implement same. Upon execution, the true copy with original signatures shall be returned to the Development Services Department. Failure to return the signed true copy of this document prior to submittal for building permits to the Development Services Department shall indicate the Property Owner's and Applicant's desire that the project, and the corresponding application for building permits and/or a business license, be held in abeyance without approval.

\_\_\_\_\_  
Signature of Property Owner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Applicant or Authorized Representative

\_\_\_\_\_  
Date

Land Development Division – Engineering:

4. Concurrent with submittal of building permit applications, pay the following fees:

- Sewer Connection and Capacity fees
- Traffic Signal fee
- Development Impact Fees per the Master Fee Schedule.

Building Division:

5. The Applicant shall submit and obtain approval of a Building Permit to the satisfaction of the City Building Official. The building permits shall comply with applicable codes and requirements, including but not limited to the 2010 California Building Code (CBC) and Ca. Handicapped Accessibility requirements, 2010 California Mechanical Code, 2010 California Plumbing Code, 2010 California Electrical Code, California Fire Code, 2010 California Green Building Standards, and 2008 California Energy Code as adopted and amended by the State of California and City of Chula Vista, and the and City of Chula Vista Increased Energy Efficiency Ordinance

FIRE DEPARTMENT:

6. The Applicant shall submit and obtain approval of building plans in compliance with the 2010 California Fire Code, that comply with the following requirements:
7. The plans shall show that the building is provided with two Knox appliances:
- a. Provide a Knox Vault at the main entrance to the building
  - b. Provide a Knox Box at the Fire control room
8. The building(s) shall be addressed in accordance with the following criteria:
- 0 – 50ft from the building to the face of the curb = 6-inches in height with a 1-inch stroke.
9. The plans shall show any modifications required to the automatic sprinkler system and fire alarm system needed to comply with the Fire Code. The Applicant shall provide building plans to the Fire Department for approval, prior to any modifications, showing a “deferred submittals section” that indicates that automatic sprinkler system and fire alarm are deferred submittals.
10. Commercial cooking equipment that produces grease-laden vapors shall be provided with a Type I hood and an automatic fire extinguisher system that is listed and labeled for its intended use.

11. The building plans shall clearly show proposed occupancy classification on the building plan submittal.
12. The Applicant shall ensure that the occupant load per area is clearly described and calculated for each suite area
13. The building plans shall include door schedules that give adequate hardware details to determine that the correct exiting hardware, panic hardware and fire exit hardware is being provided. Provide manufacturer name and model number.
14. The building plans shall provide and show required means of egress illumination on emergency power as required by Section 1005 of the California Building Code.
15. The building plans shall show portable fire extinguishers on the building plans. Portable fire extinguishers shall be provided in cabinets. Provide at least one 2A10BC extinguisher per suite, with extinguishers spaced for no more than 75 ft. of travel distance to an extinguisher from anywhere within the suite.

Upon certification by the Development Services Department for occupancy or establishment of use allowed by this Conditional Use Permit, the following conditions shall apply:

#### DEVELOPMENT SERVICES DEPARTMENT

##### Planning Division:

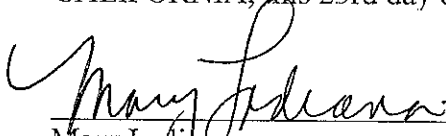
16. The hours of operation of the restaurant, including alcoholic beverage sales and consumption, live music and dance performance, shall be seven days a week Sunday through Saturday from 8:00 am to 1:00 am.
17. This Conditional Use Permit is valid for operation of a restaurant serving alcoholic beverages with live entertainment or dancing, as specified in the application and described in the Otay Ranch Freeway Commercial SPA and Chula Vista Municipal Code. Any new use, modification or expansion of the use, or activities not authorized under this Conditional Use Permit shall be subject to the review and approval of the Zoning Administrator. If the modification involves a change to the Alcoholic Beverage Control license, review and approval of the State of California Department of Alcoholic Beverage Control is required.
18. The Applicant shall operate the project in compliance with the Performance Standards, CVMC Chapters 19.66 and Performance Standards and Noise Control, Chapter 19.68. The Project cannot generate noise in excess of the applicable exterior noise limits for the receiving land use categories specified in CVMC 19.68.030, Table III. If a formal complaint is received by the Director of Development Services, or if the Director determines that the Applicant is not operating in compliance with the conditions of approval of this permit, then the Director has the discretion to initiate an investigation which may include requesting the applicant to submit plans, technical studies such as

acoustical studies, or other information deemed necessary to respond to the complaint or non-compliance issue. After review, the Director has the discretion to either maintain the existing Conditional Use Permit, modify the Conditional Use Permit, or revoke the Conditional Use Permit, pursuant to the requirements of CVMC Section 19.14.270.

19. Approval of this Project shall not waive compliance with all sections of Title 19 of the Municipal Code, and all other applicable City Ordinances in effect at the time of the approval of this Conditional Use Permit.
  20. If any of the foregoing conditions fail to occur, or if they are, by their terms, to be implemented and maintained over time, if any of such conditions fail to be so implemented and maintained according to their terms, the City shall have the right to revoke or modify all approvals herein granted, deny, or further condition issuance of all future building permits, deny, revoke, or further condition all certificates of occupancy issued under the authority of approvals herein granted, institute and prosecute litigation to compel their compliance with said conditions or seek damages for their violation. The applicant or a successor in interest gains no vested rights by the City's approval of this Conditional Use Permit.
  21. The Applicant shall and does hereby agree to indemnify, protect, defend and hold harmless the City, its Zoning Administrator, its officers, employees, agents and representatives, from and against all liabilities, losses, damages, demands, claims and costs, including court costs and attorney's fees (collectively, "liabilities") incurred by the City arising, directly or indirectly, from (a) City's approval and issuance of this Conditional Use Permit, (b) City's approval or issuance of any other permit or action, whether discretionary or non-discretionary, in connection with the use contemplated by the permit, and (c) Applicant's installation and operation of the facility permitted. The Applicant shall acknowledge their agreement to this provision by executing a copy of this Conditional Use Permit, upon approval of the Zoning Administrator. Applicant's compliance with this provision is an express condition of this Conditional Use Permit and this provision shall be binding on any and all of the Applicant's/operator's successors and assigns.
  22. This permit shall become void if not used or extended within three years of the effective date thereof in accordance with Section 19.14.260 of the Chula Vista Municipal Code. Failure to comply with the any conditions of approval shall cause this permit to be reviewed by the City for additional conditions or revocation.
- POLICE DEPARTMENT:
23. The Applicant shall operate in compliance with the following requirements of the Chula Vista Police Department, including:
    - a. The door(s) shall be kept closed at all times during the operation of the premises except in cases of emergency and to permit deliveries. Said door(s) not to consist solely of a screen or ventilated security door.

- b. The sale of distilled spirits by the bottle for same day or future consumption is prohibited.
- c. Sales and service of alcoholic beverages shall be permitted only between the hours of 8:00 AM and 1:00 AM each day of the week.
- d. Sales, service, and consumption of alcoholic beverages shall be permitted in the patio area only between the hours of 8:00 AM and 12:00 AM each day of the week.
- e. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the Department on demand.
- f. There shall be no patron dancing allowed on the premises.
- g. The use of any amplifying system, device, or live entertainment is prohibited on the front patio, and the use of any such system, device, or live entertainment inside the premises shall not be audible outside the premises.
- h. The use of any amplifying system or device is prohibited in the courtyard area. Any live entertainment in the courtyard area will not be audible from the "outside" of the building. The "outside" of the building will not include the airspace directly above the courtyard but will include anything past the walls of the licensed premises.

APPROVED BY ZONING ADMINISTRATOR OF THE CITY OF CHULA VISTA,  
CALIFORNIA, this 23rd day of August, 2012.

  
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Mary Ladiana,  
Zoning Administrator